This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

Us
5023
195

US 5023.195

Harvard College Library

GIFT OF

THE AUTHOR

over

u S5023.195

WEBSTER'S WORK FOR THE UNION

BERGEN

WEBSTER'S WORK FOR THE UNION

Daniel Webster

WEBSTER'S WORK FOR THE UNION

A PAPER READ BEFORE THE FORTNIGHTLY CLUB
NEWARK, NEW JERSEY
APRIL 6, 1914

BY
FRANK BERGEN

Neque enim ulla res est, in qua propius ad deorum numen virtus accedat humana, quam civitates aut condere novas aut conservare jam conditas.
—Cicero de Republica.

NEWARK, N. J.
BAKER PRINTING COMPANY
1914

LL S 5023.195

HARVARD COLLEGE LIBRARY
SEP 1914
CAMBRIDGE, MASS.

The Author

NOTE

The following paper was prepared for the purpose of bringing out a little more distinctly than elsewhere (1) the plight from which Daniel Webster rescued the constitution; (2) the fact that in March, 1850, he was not behind the spirit of the times in dealing *as a statesman* with the menacing problem of slavery; and (3) that his personal opinions on the subject of slavery were quite in harmony with the sane sentiment of his countrymen in the decade before the civil war.

For the use of the portrait of Webster I am indebted to Houghton, Mifflin Co., by whom it was published in Lodge's Life of Webster; and to J. B. Lippincott Co. for the *fac-simile* of a letter by Lincoln to Chase, published by them in Lee's True History of the Civil War.

F. B.

Newark, N. J., September, 1914.

WEBSTER'S WORK FOR THE UNION

MR. GLADSTONE once said: "The American constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man." Gladstone often failed in his efforts to tell the truth, and he seldom failed more completely than when he made that statement. If he had known as much about the American constitution as he may have known about Greek, and had ever learned to make a remark in English with less than two meanings, he might have said that the building of the republic of the United States under the supposed or alleged authority of the constitution is one of the most wonderful works ever accomplished by the brain and purpose of man within a period of eighty years.

I have never been able to find out definitely whether the draft of the constitution as it came from the convention held at Philadelphia in 1787 expressed the agreement of the delegates or delegations from the states as clearly as

they might have expressed it if they had dared to be candid, or was an effort to do a good thing by stealth. There is evidence to support both views; indeed, there is so much evidence to support either view as to make controversy interminable and the ascertainment of the truth impossible. Important provisions of the constitution which were rejected, when proposed in plain language in the convention, afterwards appeared in the final draft in covert forms of expression. The important contract clause was rejected when offered by Rufus King, and afterwards inserted by the committee on style, and so approved with the rest by the final vote. Besides, other provisions that probably would not have been admitted if expressed in lucid paragraphs, were discovered, after the constitution was adopted, lurking among the loose joints of other powers, which, when examined separately, did not offend the delegates of a majority of the states.

The most notable instance of this kind consisted of the proposals to confer on the federal government power to annul legislation or proceedings of the states inconsistent with the con-

stitution. The first plan of a constitution submitted (Randolph's) contained a provision to authorize congress to negative all acts contrary, in its opinion, to the constitution or to any treaty, and to use force to compel obedience by the states. The second (Charles Pinckney's) proposed to give congress power to revise state laws supposed to conflict with the constitution, and to negative and annul them if found inconsistent. The third (Paterson's) provided that if any state or body of men should oppose or prevent the enforcement of any act of congress or a treaty, the federal executive should have power to compel obedience by force. The next (Hamilton's) declared that all laws of the states inconsistent with the constitution and acts of congress should be null and void. This was followed by a motion of Charles Pinckney to vest in congress the power to negative all laws passed by the several states interfering, in the opinion of congress, with the general interest and harmony of the union. Not one of these proposals was adopted, although some of them were pressed vigorously; but their object was substantially accomplished by other provisions

found in the constitution, when construed together.

The second section of the sixth article declares that the constitution and all laws and treaties made under the authority of the United States shall be the supreme law of the land, and the judges in every state shall be bound thereby, notwithstanding anything in the constitution or laws of any state. And in the second section of the third article it is provided that the judicial power shall extend to all cases in law and equity arising under the constitution, the laws of the United States, and treaties, and to some other matters. Consequently, when it was held that the courts had authority to declare acts of congress inconsistent with the constitution to be void, and acts of the legislatures of the states inconsistent with the constitution, or with acts of congress or treaties, also to be void, it was found that the stone which the builders at first rejected had become the head of the corner of the national government, and many good people marveled when they learned the fact.

Moreover, the constitution contained three compromises relating to a dangerous matter,

and as they were compromises with evil they were not likely to endure. In this way the constitution came to be charged with such stuff as storms are made of,—whether wittingly or not I cannot say. In considering this subject it should be remembered that many of the delegates who attended the convention were practical politicians (among the most useful members of the human family) equipped by long experience in the minor arts of statecraft, and who grew to the stature of statesmen after they died. One extravagant statement does not justify another, but in place of the remark of Gladstone it would be more accurate to say that for three-fourths of a century the original constitution was the fruitful mother of discord, which could not be suppressed permanently by the compromises of Clay, the oratory of Webster, nor by the soothing syrup compounded by Everett and labeled Washington.

I do not think it is possible to obtain a correct view of Webster's work for the union without recalling the *status* of the constitution in the public mind prior to 1830 when the debate with Hayne occurred. Did the constitution create a

national government, a federal government, or a more perfect union of the states than that which had been formed by the articles of confederation and perpetual union? Our present view of the constitution, as it towers over a large part of the world, makes it somewhat hard to realize how it was regarded in 1789. It is now regarded as a *constitution* operating directly on individuals, and also on states. The government created by it is *national*, and has the *exclusive right* to define the extent and limit of its powers. The constitution was not so understood when it was adopted, and for many years afterwards, although for a time Hamilton was permitted, if not invited, by Washington and the first and second congress, to construe it as he pleased, in the hope of getting the new government under way. If the original constitution is considered as a revision of the articles of confederation, as in large part it was, and is examined from the standpoint of the historian, abundant information may be found to sustain a cogent argument that it was a compact between sovereign states creating a federal government or continuing a confederacy, from which any state might with-

draw at will. The constitution was framed by delegates sent to the convention by the states; they voted in the convention by states; their object, as declared in the constitution, was "to create a more perfect union," that is, a more perfect union of the states. The draft of the constitution was submitted to the states for adoption; it was adopted by conventions elected by the people of the several states—not by the people of the United States *en masse;* it bound no state that did not adopt it; and it provided that when ratified by nine states it should be established as between them. The constitution also provided that the states should be represented in congress and equally in the senate; that they might appoint presidential electors in any way they pleased; that in case of a tie in the electoral college a president should be elected by the house of representatives voting by states, and that it might be amended by the states. The principal arguments presented to the people in favor of the adoption of the constitution constitute the Federalist, not the Nationalist, and the party subsequently organized to sustain the administration of Washington and of

the elder Adams was called the Federal party.

Senator Lodge, in his life of Webster, says: "When the constitution was adopted it is safe to say there was not a man in the country, from Washington and Hamilton, on the one side, to George Clinton and Mason, on the other, who regarded the new system as anything but an experiment by the states, from which any state had a right practically to withdraw, a right which was very likely to be exercised." That statement, like many others in histories of the United States and in the biographies of Americans, is too broad and emphatic. No doubt many of the people so understood the constitution. Hamilton was dissatisfied with it, and probably believed that a government established under it could not endure; but as the constitution prepared by the convention offered the only chance to change the league of states into a nation, he rallied his friends around him and strove mightily to secure its adoption. His splendid intelligence may have discerned possibilities in the proposed constitution which others did not or could not see.

Ten years after the constitution was adopted

the Kentucky resolutions were written by Jefferson, and the Virginia resolutions by Madison, declaring in substance that the constitution was a compact, the government a confederacy, and that the states might judge of any alleged infraction of the compact, and prohibit the enforcement of any act of congress within their borders which they had decided to be a palpable and dangerous violation of the compact. These resolutions were sent to the legislatures of all the states, and within two years thereafter Jefferson was elected to the presidency by the house of representatives voting by states, and was succeeded by Madison eight years later. The doctrine of the Kentucky and Virginia resolutions sank so deeply into the public mind that they received a partial endorsement at the Hartford convention in 1814.

The collapse of the Federal party, the election of Jefferson and Madison, and the apparent approval by the people of the Kentucky and Virginia resolutions as a correct interpretation of the constitution, discredited the opinions of Hamilton and repudiated his somewhat artificial theory that the constitution had created a con-

solidated national government, at least for some important purposes, and this was done so emphatically that it was said to be a brave act for Webster, as late as 1831, to pronounce his famous eulogy on Hamilton at a banquet in New York.

The view of the relation of the states and of the people to the union expressed by Jefferson and Madison in 1798, and expounded by Hayne and Calhoun in the early thirties, was substantially this: The source of sovereignty is the people; the people erected the governments of the several states and delegated part of their sovereignty to them; the people of the several states, acting separately, also erected the federal government of the United States and delegated part of their sovereignty to that government; all sovereignty not so delegated was retained by the people. The constitution conferred on the federal courts jurisdiction in all cases at law and in equity, that is, in all cases between suitors, and did not authorize the federal courts to decide questions that might arise between the states and the federal government. As no tribunal was created to decide such ques-

tions, it follows that each must decide for itself, just as independent governments may construe treaties which they may have made. Jefferson and his disciples argued that if the federal government were permitted to determine for itself the extent of its powers, the result would be to appropriate gradually the reserved sovereignty of the people, and also that committed to the governments of the states, and so erect a despotism on the ruins of the confederacy. Webster argued, and succeeded in convincing a majority of the people, that all questions as to the meaning of the constitution arising in suits at law or in equity must be decided by the courts; that the supreme court of the United States is the final tribunal to determine such questions; that its decisions declare the supreme law of the land; and that all other questions as to the meaning of the constitution may be decided by congress. It must be conceded that since Webster's view came to prevail the outlines of the states have been slowly fading from the map of the country, and the government at Washington is gradually fulfilling the prophecies of Jefferson and

Calhoun. Whether the process of consolidation has proceeded or is likely to proceed too far is a question not now to be considered.

About a month before John Adams left the White House he appointed John Marshall chief justice, who held the office from 1801 until 1835, and during that period wrote forty-four opinions on constitutional questions. Marshall's views of the constitution concurred in the main with those that Hamilton had undertaken to administer. Perhaps Marshall's most important opinions were rendered in *Marbury v. Madison,* holding that the supreme court, and of course any other court, has power to declare an act of congress to be invalid; *Cohens v. Virginia,* and the *Dartmouth College Case,* holding that statutes of a state were also subject to condemnation by the federal courts; *McCulloch v. Maryland,* in which the implied powers of the constitution were developed at the expense of the states, and in *Gibbons v. Ogden,* asserting the omnipotent power of congress over interstate commerce. Webster participated in the argument of these cases, except the first, and Marshall's opinions concur with the arguments that Web-

ster presented. By the arguments and opinions in these and many other cases in which Webster appeared, the dormant or hidden things in the constitution were brought forth slowly and established as part of the constitutional jurisprudence of the country, much to the annoyance of Jefferson and the pupils of his school. The opinions of Marshall no doubt did something to create the sentiment which made Webster's reply to Hayne grateful to the public mind, although the masses of the people seldom take much interest in lawsuits.

The controversy between Webster and Hayne in January, 1830, arose nominally over a harmless resolution introduced by Senator Foote relating to the public lands. Hayne evidently was looking for an opportunity to assail New England, and Webster as its foremost statesman. He charged that New England had been unfriendly to the west in dealing with the public lands and entertained views of the constitution that were unsound, and purposes, indicated by the protective tariff law of 1828, that were hostile to the true interests of the rest of the country. His effort evidently was

to persuade the west that the east was its enemy, and the south its friend. Both Webster and Hayne made two elaborate speeches, and a few minor remarks on Foote's resolution. Hayne's first speech was aggravating, but not personally offensive, and Webster made a dignified and convincing reply. Thereupon Hayne lost his temper. His second speech was elaborate, and in it he expounded, for the first time, Calhoun's curious doctrine of constitutional nullification, based on the Kentucky and Virginia resolutions. Besides, his speech was highly exasperating, and contained many sharp and angry thrusts at Webster, who on the two following days delivered his immortal reply.

It is difficult to describe the reply of Webster in language that seems to be temperate and judicial. It made a profound impression on those who heard it, and convinced millions who read it in print. Its admirable rhetoric appealed alike to scholars who had spent their lives groping among the remains of dead languages; to people of limited education, and to school boys who had just learned to read; and it appealed so forcibly to a latent sentiment for

nationality that it really established the constitution in the public mind, and placed the union for the first time on a permanent foundation. Its beneficial effects perhaps never were equaled by a single speech, before or since. Parts that now seem to be defects had the effect of merits in 1830, and for many years after. Webster's pugnacious attitude towards Hayne charmed multitudes who were fond of a personal combat, and induced them to read the speech repeatedly from beginning to end, and as they read they learned to realize the value and grandeur of the union. It taught Americans to "think continentally." The apostrophe to Massachusetts was a terrific effort to overcome Hayne's biting and not unjust criticism by the force of concussion alone. The extravagant peroration, which Webster himself in after years had the good sense to criticise, was declaimed in school houses all over the north, and planted national patriotism deep into the mind of the generation that was called on to preserve the union in the civil war. Governor Long of Massachusetts said in January, 1882—a hundred years after Webster was born: "The great rebellion of

1861 went down hardly more before the cannon of Grant and Farragut than the thunder of Webster's reply to Hayne." And the late Senator Hoar said in a speech at Plymouth in August, 1889: "Webster's great argument was behind every bayonet, and was carried home with every cannon-shot in the war which saved the union." The perfect taste of Daniel Webster excluded from his speeches such clumsy efforts as these to generate poetry. I imagine the governor and the senator intended to say that the reply to Hayne created and sustained a sentiment for nationality in the public mind that probably turned the tide of victory from the south to the north in the war for the preservation of the union. So interpreted I should say their remarks are true.

In the autumn of 1832 Hayne was elected governor of South Carolina, and retired from the senate. Calhoun near the same time resigned the vice-presidency and was elected to the senate. On November 24th South Carolina adopted the memorable ordinance to nullify the tariff act of 1828. The ordinance denounced the act as a violation of the constitution highly

injurious to the interests of South Carolina, and forbade every citizen of the state to obey or enforce it. Ironclad oaths to observe the ordinance were required of public officials, and severe penalties were prescribed for its violation. Thereupon Jackson issued a proclamation (written, or at least revised, it is said, by Edward Livingston) in which he forcibly denied the right of a state to nullify or prohibit the enforcement of an act of congress, or to secede from the union. The proclamation was based largely on the view of the constitution and the union that Webster had presented in his reply to Hayne.

In January, 1833, a bill was introduced in congress, commonly called the force bill, to enable the president to enforce more readily the tariff laws in South Carolina. The following day Calhoun introduced a series of resolutions in the senate, setting forth his views of the right of a state to nullify an act of congress which in its opinion was a palpable and dangerous violation of the constitution, and also to withdraw from the union. Shortly after, Calhoun made a speech in the senate against the force bill, and

in support of his resolutions; and on the sixteenth of February, 1833, Webster replied in a speech entitled, "The Union Not a Compact Between Sovereign States." In that speech the fallacy of the theory of nullification and secession was reviewed and controverted still more skilfully than in the reply to Hayne; but the speech failed to attract the attention excited by the earlier effort, because it did not contain the elements that appealed so powerfully to the public mind three years before.

Webster's argument based on the text of the constitution was invincible. It was a wonderful display of his power to reason lucidly; but in so far as the discussion proceeded on historical grounds it must be said that Calhoun had the better of the argument. His rejoinder to Webster contained many sharp points, and in his discourse on the constitution, written near the close of his life, Calhoun presented an amazing variety of arguments with consummate skill to show that the constitution was a compact between sovereign states; that every state might judge for itself of an infraction of the constitution, and withdraw from the union when it

pleased, having of course what Jefferson called a decent respect to the opinions of mankind. It is impossible to read it without admiration even now—half a century after the unholy cause for which Calhoun wrecked his life and nearly wrecked the country was lost forever.

In estimating the value of Webster's work for the union in the thirties it should be remembered that he not only expounded, but to some extent *created* a constitution for the country.* At the beginning of the century the Hamilton regime, as already observed, had been overthrown, indeed almost annihilated, and, especially during the war of 1812, the constitution had come to be regarded, in New England particularly, as little better than a rope of sand. The imbecility of the administration of Madison started a change of sentiment in the public

* In a debate with Douglas at Ottawa, Illinois, in 1858, Lincoln expressed one of the maxims of our politics as follows: "In this, and like communities, public sentiment is everything. With public sentiment, nothing can fail; without it nothing can succeed. Consequently he who moulds public sentiment goes deeper than he who enacts statutes or pronounces decisions. He makes statutes and decisions possible or impossible to be executed." This observation might include constitutions quite as well. Webster made the constitution of the United States "possible to be executed."

mind, and a hope began to arise that the constitution might be found after all to contain some virtue or value. Webster, in his reply to Hayne, gave magnificent expression to that hope, and furnished convincing arguments for those who were beginning to perceive that a genuine government should be re-established at Washington; and in his reply to Calhoun, Webster gave full expression to the technical meaning of the language of the constitution that he had revived and strengthened by his earlier efforts.

Besides the famous speeches on the constitution and the union Webster delivered many others in the same strain, and also prepared and delivered occasional addresses reviewing the most important incidents in the history of the country from the landing of the Pilgrims to the building of the Capitol. These speeches differ in quality and in style. Sometimes our Homer nodded and his ponderous intellect, like the intellect of Goethe, needed excitement. The conviction that the union was the shrine of liberty came to dominate Webster's large brain completely, and he lived in the profound belief that "without its shelter no human worship-

per could detain the goddess from the skies."

At Niblo's Garden, in March, 1837, speaking in a lofty strain he had learned from Milton, Webster expressed the awful fear and hope for the union in which he lived and died:

"Under the present constitution, wisely and conscientiously administered, all are safe, happy, and renowned. The measure of our country's fame may fill all our breasts. It is fame enough for us to partake in *her* glory, if we will carry her character onward to its true destiny. But if the system be broken, its fragments must fall alike on all. Not only the cause of American liberty, but the grand cause of liberty throughout the whole earth, depends, in a great measure, on upholding the constitution and union of these states. If shattered and destroyed, no matter by what cause, the peculiar and cherished idea of united American liberty will be no more for ever. There may be free states, it is possible, when there shall be separate states. There may be many loose, and feeble, and hostile confederacies, where there is now one great and united confederacy. But the noble idea of united American liberty, of *our* liberty, such as our

fathers established it, will be extinguished for ever. Fragments and shattered columns of the edifice may be found remaining; and melancholy and mournful ruins will they be. The august temple itself will be prostrate in the dust. Gentlemen, the citizens of this republic cannot sever their fortunes. A common fate awaits us. In the honor of upholding, or in the disgrace of undermining the constitution, we shall all necessarily partake. Let us then stand by the constitution as it is, and by our country as it is, one, united, and entire; let it be a truth engraven on our hearts, let it be borne on the flag under which we rally, in every exigency, that we have one country, one constitution, one destiny."

Webster's profound sincerity was one of the secrets of his power, and of his success in convincing millions of his countrymen that the union must be preserved at all hazards and at every cost.

I must now pass on to a momentous incident in the life of Webster growing out of the war with Mexico. In order to be prepared to negotiate a treaty with Mexico, President Polk

in 1846 asked congress for an appropriation of $2,030,000 to be used in part to pay the expenses of the negotiation, and the balance to be used in his discretion — perhaps for some ungodly purpose. A bill to appropriate the money was about to pass the house, when David Wilmot of Pennsylvania offered an amendment in the form of a proviso that no part of the money appropriated by the bill should be used to acquire territory, and no territory should be acquired from Mexico except on the fundamental condition that slavery should never exist therein. The proviso was adopted by the house. Webster voted for it in the senate, but the bill failed to pass. The following year a bill appropriating $3,000,000 for the same purpose was passed, without the proviso. The Wilmot proviso, although it failed of adoption, stirred again the controversy over slavery, until it raged with more violence than ever before. Webster dreaded the outlook, and in discussing the proviso declared that he saw nothing in the future but contention and strife. The territory, however, that Polk desired, was obtained, but it was subject to the Mexican law prohibiting slavery.

In the autumn of 1849 the people of California (part of the territory taken from Mexico by the slave power), called a convention to frame a constitution. The convention consisted of forty-eight members, fifteen of whom were from the slave states. The draft of the constitution prepared by the convention contained a provision prohibiting slavery. It was adopted unanimously by the convention, and promptly ratified by the people. The popular vote in its favor was about fifteen to one. Two senators were elected by the legislature to serve in congress, and application was made for admission to the union early in the following year. This proceeding infuriated the statesmen and spokesmen of the slave states, and Clay devised the last of his compromises to still the tempest.

Four years after the compromise of 1850 was effected Lincoln described it as follows: "The union now, as in 1820, was thought to be in danger; and devotion to the union rightfully inclined men to yield somewhat in points where nothing else could have so inclined them. A compromise was finally effected. The south got their new fugitive slave law; and the north got Cali-

fornia (by far the best part of our acquisition from Mexico) as a free state. The south got a provision that New Mexico and Utah, when admitted as states, may come in with or without slavery as they may then choose; and the north got the slave trade abolished in the District of Columbia. The north got the western boundary of Texas thrown farther back eastward than the south desired; but, in turn, they gave Texas ten millions of dollars, with which to pay her old debts. This is the compromise of 1850."

In support of those measures Webster made his memorable speech on the seventh of March. New Mexico at that time was supposed to consist largely of mountains and desert, in which slavery could not flourish, and if introduced there would die out, as it had died out in the northern states, and for the same reasons. Therefore Webster was not willing to apply the doctrine of the Wilmot proviso to that territory. To do so, he argued, would irritate the south, and do nothing to aid the anti-slavery cause. "I look upon it," he said, "as a fixed fact, to use the current expression of the day, that both California and New Mexico are destined

to be free." To put a provision in a bill to provide territorial government for New Mexico which should exclude slavery, he said, "would be idle as it respects any effect it would have upon the territory, and I would not take pains uselessly to re-affirm an ordinance of nature, nor to re-enact the will of God."

It has been said that Webster was in error when he declared that nature had barred slavery from New Mexico because the territory contained minerals and slaves worked in mines in ancient times, and in modern times serfs and criminals worked in the mines of Siberia. This criticism overlooks important facts:—Slavery in Webster's time had died out in the northern states where minerals abounded. In 1850 there was a strong anti-slavery sentiment in all civilized countries, including the border states. California, as we have seen, had applied for admission to the union with an anti-slavery constitution, and there was good reason to suppose that New Mexico would do the same.* But if

* In 1850, and after Webster's 7th of March speech, a convention met at Santa Fe, New Mexico, and drafted a state constitution prohibiting slavery. This constitution was ratified by the people, and state

Webster had not been confident "that California and New Mexico were destined to be free," it is clear that he would not have favored the provision in the compromise relating to New Mexico and Utah. Of this, his consistent record of hostility to the extension of slavery is abundant proof; but there is still more. In June, 1850, in reply to a letter received from a number of citizens living along the Kennebec, Webster wrote: "One of the exciting questions of the present moment respects the necessity of excluding slavery by law from the territories lately acquired from Mexico. If I believed in such a necessity, I should, of course, support such a law. I could not do otherwise consistently with opinions very many times expressed, and which I have no inclination to change, and shall not change."

It was the opinion of some of Webster's in-

officials were chosen. The military governor of the territory refused, however, to abdicate in favor of the state government without authority of congress. In December of that year congress passed an act creating a territorial form of government for New Mexico as part of the compromise measures, and after a struggle the embryo state government disappeared. The incident illustrates the correctness of Webster's judgment as to the course likely to be taken by the people of New Mexico when the territory should be permitted to enter the union as a state.

timate friends, and millions of his countrymen, that his seventh of March speech was a dreadful mistake. Before concurring in that opinion I should like to hear at least a plausible answer to the question: What course should Webster have taken in dealing with Clay's compromise measures in 1850? Webster's opposition might easily have defeated the compromise, but: What then? He had opposed Clay's compromise of 1833, and insisted that the strength and dignity of the government should be vindicated; but Jackson, after blustering and threatening for three years, allowed Clay to surrender to Calhoun nearly all South Carolina demanded. In 1850 not South Carolina alone, but several other southern states, threatened to secede unless their wishes, or rights as defined by themselves, were respected and secured by law. The teachings of Calhoun had been as potent in the south as Webster's in the north, and Webster in those gloomy days no doubt foresaw the conflict impending which actually occurred ten years later.*

* I append, at page 78, an extract from Calhoun's speech on the compromise measures read in the senate on March 4, 1850. Calhoun was present, but too ill to deliver the speech himself.

To avert it if possible, or, if inevitable, to postpone it as long as possible, he believed to be the supreme duty of the hour. Probably he knew that a generation was rising with a disposition to fight for the union, but he could not have known that the young Americans of 1850 were more courageous than Jackson was in 1833. The latent sentiment in the north that Webster had created by his speeches in reply to Hayne and Calhoun perhaps was stronger than he knew or could have known, and much of the thoughtless rage that his seventh of March speech aroused came from the deep feeling among the people that their teacher, by whose arguments they had been convinced that a nation had been born, should have taken a defiant attitude in defence of the union instead of marking time. Webster, wiser than his critics, was not sure that the union could be saved by war. The south was united and exasperated by its failure to establish slavery in the territory wrested from Mexico, and a convention had been called to meet at Nashville in June to consider the supposed grievances of the slave-holding states. The north was not united. Intem-

perate abolitionists were denouncing the constitution as "a compact with hell," and demanding a dissolution of the union with slave-holders, and Clay was urging compromise. A wise statesman cannot disregard the sentiment of the hour in which he is called upon to act on a fateful issue, and his conduct often must be influenced by his responsibility. Indeed, during the winter of 1860–1, after the union had begun to dissolve, the Republican party raised the white flag at Washington repeatedly, but did not succeed in surrendering to the slave power, and so averting or postponing war.

It would require many portly volumes to hold all that has been said in condemnation and approval of Webster's speech on the seventh of March, and of his subsequent support of the compromise measures. Those who consider the matter under the impression that Webster was arguing in favor of the institution of slavery find no difficulty in reaching the conclusion that Whittier hastily expressed in "Ichabod" and retracted in "The Lost Occasion." Book men generally have inclined to the opinion that Webster's course in 1850 was inconsistent with

his previous record on slavery and a dark shadow on his fame. The late professor Von Holst is conspicuous among those who have judged Webster unjustly by letters and lamplight alone; but Carl Schurz, with a stronger congenital disposition to find fault, was saved from falling so deeply into the same error by the fact that before passing judgment on Webster, in his life of Clay, he had been a senator himself, and partly realized the truth of Burke's familiar observation that "all government—indeed, every human benefit and enjoyment, every virtue and every prudent act—is founded on compromise and barter."

If official action, which necessarily recognized slavery, is convincing evidence of the approval of slavery, even Washington was not faultless. The noble Virginian was the first to sign the constitution with its provision for return of fugitive slaves; he also signed the fugitive slave law of 1793, and, besides, was a slaveholder himself. But Washington so disliked slavery that he set his slaves free by his will, and his fame has survived his connection with an institution that came to be regarded as

"the sum of all villainies" by the quickened conscience of a later day.

The problem Webster had to deal with was not whether slavery was right or wrong. He never ceased to call it a moral and political wrong, that should not be extended beyond the states where it existed. A fair judgment of the compromise measures of 1850 can only be rendered after considering all of the elements of the transaction. Whoever, being opposed to slavery, looks at the California incident alone would no doubt regard it as a highly gratifying victory in the cause of freedom, because the best part of the territory taken from Mexico by the slave power for the purpose of sustaining and extending slavery was promptly organized as a free state, and for the first time gave to the free states a majority of the members of the senate; but any one who should form an opinion of the compromise by studying the fugitive slave law alone might well borrow the language of the abolitionist to express his conclusion. The provisions of the compromise relating to New Mexico and Utah gave a chance for the extension of slavery, such as was afforded a few

years later by the Kansas-Nebraska law; but the probability that slavery should ever be established in those territories was remote. The location of the Texas boundary line, another part of the compromise, was in favor of freedom, and, besides, the slave trade in the District of Columbia was abolished. The controlling consideration in the mind of Webster was the preservation of the union, and the accomplishment of that object justified all that he said. What he said was necessary to save the union, and it had that effect. Considering the transaction as a whole, after sixty years, it would be difficult for impartial history to find a reason to speak harshly of the statesmen who contrived and supported the compromise. The opinion that the compromise was a finality, if ever seriously entertained, turned out to be unfounded; but it gave a chance for the milder influences of civilization to abolish slavery, if possible, and many hoped and some believed, and history encouraged the belief, that it was possible. The statesmen of the northern and the border states were justified in deciding in 1850 that it was better to endure the ills of slavery

for a season than to hazard the existence of the constitution and the union in the wild lottery of war.

There is an impression—made by volleys of vituperation more than sixty years ago and still lingering in the public mind—that Webster was an ardent advocate of the infamous fugitive slave law of 1850. The truth is that he was opposed to it from the first, and did not vote for it in the senate. He was in favor of a congressional fugitive slave law after the decision of the supreme court that congress had the exclusive power to legislate for the return of fugitive slaves, although his personal opinion was that the duty to return fugitive slaves had been imposed by the constitution on the states and should be exercised by them.* An accurate statement of Webster's opinion and action relating to the fugitive slave law is sufficient to vindicate both, except in the judgment of those who think that the union with slavery was not worth saving. Garrison, Phillips, and many other impetuous abolitionists, held that opinion, but it was not the opinion of the judicious people in

* Works, vol. 5, p. 354.

the free states who were opposed to slavery.

Paragraph three of section two of article IV of the constitution states that—"No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due." That provision is one of the compromises of the constitution, and without it the constitution could not have been adopted.

It was held by the supreme court of the United States in the case of *Prigg v. Pennsylvania*, 16 Peters, 539, decided in 1842, that by virtue of that provision "the owner of a slave is clothed with entire authority, in every state of the union, to seize and recapture his slave, whenever he can do it without any breach of the peace, or without any illegal violence." It was also held in the same case that the clause conferred on congress exclusive power to legislate concerning the extradition of fugitive slaves; that the fugitive slave law of 1793 was constitutional; and that an act of the legislature of

Pennsylvania passed in 1826, which forbade the forcible removal of any negro or mulatto from that state with a design of selling or detaining him as a slave, was in conflict with the constitution of the United States. The object of the Pennsylvania statute was to require judicial proceedings before removal, if a fugitive resisted.

In our humane age it is impossible to justify the fugitive slave laws except, possibly, as a dire necessity. The first fugitive slave law was passed in 1793; the second and last was passed in 1850. The earlier act related both to fugitives from justice and fugitives from labor. For a generation prior to 1850 not more than three or four fugitive slaves were returned to the south from New England, and many slaves in various parts of the country were aided in their efforts to escape to Canada by people opposed to slavery. In many northern states personal liberty laws were passed for the purpose of making it difficult or impossible to recover fugitive slaves. The act of 1850 grew out of a demand by the slave states for a more effective law. It contained two damnable provisions

not expressed in the former act—one prohibiting an alleged slave from testifying in a proceeding to extradite him, and another giving to the commissioner who heard a fugitive slave case ten dollars if he decided in favor of the claimant, and five dollars if he decided in favor of the fugitive. It also made *ex parte* affidavits plenary evidence for the claimant. Such affidavits, however, were used, and fugitives were not allowed to testify, in proceedings under the act of 1793.*

In February, 1850, Webster prepared an amendment to the fugitive slave law of 1793, or, rather, a revision of that act, so far as it related to fugitive slaves, and provided in his bill that every judge of the federal courts and every commissioner appointed by those courts should, on com-

* The earliest fugitive slave law enacted in this country was inserted in the articles of confederation of the united colonies of New England in 1643. It provided for the return of fugitive slaves upon the certificate of a magistrate in the jurisdiction from which the slave had fled, and no trial by jury was permitted. There was also a provision relating to fugitive slaves in the ordinance of 1787 for the government of the northwest territory, stating that any person escaping into that territory from whom labor or service was lawfully claimed in any one of the original states might be "lawfully reclaimed and conveyed to the person claiming his or her labor or service."

plaint, issue a warrant for the arrest of an alleged fugitive slave, and cause him to be taken before any federal judge or commissioner within the state or territory where found "that the right of the person claiming the service of such fugitive may be examined" on "depositions duly authenticated and parol proof." Webster's bill also contained a provision that if the fugitive should deny that he owed service to the claimant the judge or commissioner must forthwith summon a jury to try the issue so raised and preside at the trial and determine the competency of the proof. There could be no sound objection to such a law, if any fugitive slave law was required by the constitution. In June, 1850, Webster introduced his bill in the senate, but it received no support. He also prepared an amendment to the bill introduced by Senator Mason (and which finally became a law), providing for a trial by jury chosen from the neighborhood where the fugitive was arrested. Dayton offered the amendment after Webster had resigned from the senate. Clay offered a substitute, providing for a trial by a jury of the vicinity from which the fugitive had escaped.

Both amendments failed. Although Webster did not vote for the fugitive slave law of 1850, he said in his seventh of March speech that he intended to support Senator Mason's bill *with some amendments.* He retired from the senate in July of that year, and accepted the office of secretary of state. The fugitive slave law was enacted in September following. It is true, however, that Webster supported the compromise measures after they became laws; but if he supported the fugitive slave law because he liked it, or because he did not believe that its support was necessary to save the union, he deserved all that was ever said against him. The situation presented to Webster the single question whether the preservation of the union was important enough to justify the support of measures which it was supposed at the time would strengthen the position of slavery. He decided the fateful question in favor of the union, and precisely as Lincoln would have decided it. In a speech at Peoria, Illinois, in October, 1854, Lincoln said: "Much as I hate slavery, I would consent to the extension of it rather than see the union dissolved, just as I

would consent to any great evil to avoid a greater one."

Two or three weeks after Webster delivered his seventh of March speech, Theodore Parker at a meeting in Faneuil Hall, intimated broadly, although he did not charge directly, that Webster's speech was a bid for the presidency, to which it was known he had long aspired, and certainly had a clear right to aspire. In the following month Horace Mann made the same unjust accusation. Defamation loves a shining mark, and so the accusation ran over the country with all the fleetness of falsehood, and there are many good people who believe even now that Webster crooked the hinges of his knee to the slave power that political thrift might follow fawning. It is only necessary to credit Webster with ordinary intelligence to realize that he must have known that his speech could not aid his political fortunes either in the north or south, and in fact it did not.

It may be that Webster underestimated the strength of the anti-slavery sentiment in the north in 1850. For twenty years there had been much fierce denunciation of slavery, and increas-

ing hostility to the enforcement of the fugitive slave law, especially in New England. This feeling had been much aggravated by the Wilmot proviso and the purpose and outcome of the war with Mexico; and although Webster was in favor of respecting the provision in the constitution relating to persons held to service and of obeying the fugitive slave law, it required courage for him to say so in the senate as the most conspicuous representative of Massachusetts. Such a declaration seemed to an excited or excitable mind to be inconsistent with his lifelong dislike of slavery and hostility to its extension into territory where it did not lawfully exist. The rebuke which Webster administered to the north for refusing to obey the fugitive slave law, and the declaration of his purpose to vote *after some amendments* for a more effective statute for the rendition of slaves, then pending in the senate, coupled with a candid admission that he had no plan to propose for the abolition of slavery, all in the same speech, certainly could not increase his strength in the north as a candidate for the presidency. On the contrary, it promptly caused a wide-

spread storm of fierce denunciation that tarnished his fame for half a century and has not yet ceased entirely to beat upon his tomb.

It is commonly supposed that Seward in his speech on the compromise measures announced the "higher law" as a new discovery, but thirteen years earlier almost to a day, Webster in a speech at New York declared impressively that the conscience of the community was marshaling its forces to go to the rescue of the slave. He said: "On the general question of slavery, a great portion of the community is already strongly excited. The subject has not only attracted attention as a question of politics, but it has struck a far deeper toned-chord. It has arrested the religious feeling of the country; it has taken strong hold on the consciences of men. He is a rash man, indeed, and little conversant with human nature, and especially has he a very erroneous estimate of the character of the people of this country, who supposes that a feeling of this kind is to be trifled with or despised. It will assuredly cause itself to be respected. It may be reasoned with, it may be made willing, I believe it is entirely willing, to

fulfil all existing engagements and all existing duties, to uphold and defend the constitution as it is established, with whatever regrets about some provisions which it does actually contain. But to coerce it into silence, to endeavor to restrain its free expression, to seek to compress and confine it, warm as it is, and more heated as such endeavors would inevitably render it,—should this be attempted, I know nothing, even in the constitution or in the union itself, which would not be endangered by the explosion which might follow."

This was an extremely dangerous feeling for Webster to reason with or oppose,—even to confine it within the compass of the constitution and the law. After much reflection and consultation with friends, in which he learned that he could count on no support by his colleagues from Massachusetts and but little by the members of congress from the New England states, Webster bravely made his final effort to save the union, saying: "I have made up my mind to embark alone on what I am aware will prove a stormy sea, because, in that case, if final disaster shall ensue, there will be but one

life lost." He believed, however, that his judgment would be vindicated in the course of time. In his speech he denounced the anti-slavery societies, because he believed them to be enemies of the union, as many abolitionists openly professed to be, and he scolded the people who were opposed to the enforcement of the fugitive slave law, because he believed that its enforcement was indispensable to the preservation of the union. It may be observed in passing that in the last century, as in our day, much was said in politics that was not felt by the speakers. Many no doubt advocated the enforcement of the fugitive slave law who could never have been persuaded or forced to join in a hue and cry to apprehend a slave running toward the north star, and it was not the least of the curses of slavery that it often compelled the pure in heart to speak falsely.

Nor is there anything in the speech that could be construed as a bid for the southern vote for the presidency. It needs but a slight acquaintance with the dominant sentiment in the slave states in 1850 to realize that fact. Speaking on the seventh of March Webster read

extracts from a speech he had made at Niblo's Garden in 1837, in which he said: "When I say that I regard slavery in itself as a great moral, social and political evil, I only use language which has been adopted by distinguished men, themselves citizens of slave-holding states. I shall do nothing, therefore, to favor or encourage its further extension. We have slavery already among us. The constitution found it in the union; it recognized it, and gave it solemn guaranties. To the full extent of these guaranties we are all bound, in honor, in justice, and by the constitution." After reciting his remarks made in 1837, Webster continued: "I have nothing to add to, or to take from, those sentiments."

Ten years later, speaking at a convention in Springfield, Massachusetts, Webster declared: "We are to use the first and the last and every occasion which offers to oppose the extension of slave power." He also quoted that expression on the seventh of March, and added: "I know no change in my sentiments, or my purposes, in that respect." And again, after insisting that slavery could not thrive in New Mexico, he said: "Wherever there is a substantive good

to be done, wherever there is a foot of land to be prevented from becoming slave territory, I am ready to assert the principle of the exclusion of slavery. I am pledged to it from the year 1837; I have been pledged to it again and again; and I will perform those pledges; but I will not do a thing unnecessarily that wounds the feelings of others, or that does discredit to my own understanding." Those remarks constitute a fair statement of the position taken by the Republican party on the subject of slavery in its platform adopted at Chicago in 1860.

I cannot see how it is possible to condemn Webster for his seventh of March speech without passing a similar judgment on Lincoln. In 1858 Lincoln said in a speech at Springfield, Illinois: "'A house divided against itself cannot stand.' I do not believe this government can endure, permanently, half slave and half free. I do not expect the union to be dissolved; I do not expect the house to fall; but I do expect that it will cease to be divided. It will become all one thing or all the other. Either the opponents of slavery will arrest the further spread of it, and place it where the public mind shall

rest in the belief that it is in the course of ultimate extinction, or its advocates will push it forward until it shall become alike lawful in all the states, old as well as new, north as well as south." Four years later he was elected to the presidency, and one of the most frightful wars in history ensued. In August, 1862, Lincoln in a letter to Greeley, replying to a querulous editorial in the Tribune, was constrained to take the position that Webster had occupied in 1850: "My paramount object in this struggle," said Lincoln, "is to save the union, and it is not either to save or to destroy slavery. If I could save the union without freeing any slave I would do it; and if I could save it by freeing all the slaves I would do it; and if I could save it by freeing some and leaving others alone I would do that. What I do about slavery and the colored race, I do because I believe it helps to save the union; and what I forbear, I forbear because I do not believe it would help to save the union."

That passage states perfectly the attitude of Webster in 1850, and explains the purpose of his speech on the seventh of March,—to save

the union regardless of slavery. At the end of the letter to Greeley, Lincoln said: "I intend no modification of my oft expressed personal wish that all men everywhere could be free." Webster repeatedly expressed the same good wish. Rhodes in his history says of Webster: "His dislike of slavery was strong, but his love for the union was stronger;" and Lincoln, defining his purpose and opinion in his letter to Greeley said the same thing. If Webster in 1850 had talked in the senate as Lincoln talked eight years later on the stump it is quite likely—indeed I believe it is certain—that the civil war would have occurred with some one like Fillmore, Pierce or Buchanan in the White House.

The speeches and letters of Webster and Lincoln relating to slavery and the union indicate that neither statesman believed that the inhabitants of the free states had a right to interfere with slavery in the states where it existed, and therefore should not attempt to do so.* Both were opposed to the acquisition of addi-

* Several extracts from their letters and speeches are appended.

tional territory where slavery existed or might flourish; both were opposed to the extension of slavery into the territories belonging to the United States; both were in favor of an effective fugitive slave law; both were dissatisfied with the fugitive slave law of 1850, but after its passage they were willing it should be enforced; both believed, after the compromise of 1850, that slavery was "in the course of ultimate extinction"; and both preferred to save the union with slavery (and Lincoln was willing to extend slavery), rather than see the union dissolved in the hope thereby of aiding in the abolition of slavery. The difference in their feeling in respect of slavery and the union seems to be this:— Webster disliked slavery; Lincoln hated slavery. Webster probably set a higher value on the union than Lincoln did. The establishment and preservation of the union was the work to which Webster devoted his life. For the abolition of slavery Lincoln suffered death.

The outcome of the struggle between freedom and slavery justified the judgment of Webster in 1850—the union was saved, and slavery was

abolished. If the compromise measures had failed, the civil war would have occurred ten years earlier and resulted probably in the establishment of a southern confederacy, with slavery as its corner-stone, and a dead line between freedom and slavery extending from the Potomac to the Rio Grande.

As Webster's life was drawing to its close a curious exercise of New England emotion was exhibited. In April, 1851, a large number of the solid men of Boston desired to offer him a public reception in Faneuil Hall. Webster was willing to accept the invitation, and Choate agreed to welcome him with charming speech and tangled rhetoric, but the board of aldermen refused permission to use the hall. Thereupon the people murmured; the aldermen attempted to excuse themselves, and the common council unanimously invited Webster to meet them in the hall, but he declined in a dignified letter, saying that he would "defer his visit to Faneuil Hall until its doors should open on golden hinges to let in all men who were true to the union as well as to liberty." A little more than a year later he suffered a painful injury by a fall from his car-

riage, and the people demanded a sight of their idol. The doors of the hall were opened on golden hinges by unanimous consent, and Webster for the last time in the cradle of liberty declaimed the platitudes of patriotism before a delighted audience. As he looked around on the portraits of the patriots at whose feet he had learned to prize the union above all things, he exclaimed, "This is Faneuil Hall, *open!*" Six weeks later, and after the whig convention at Baltimore had nominated Scott for the presidency, Webster on his way from Washington to Marshfield was "arrested" as he said at Boston, and a reception given to him, which according to the elderly people surpassed any ovation that had ever been tendered in Massachusetts to a famous man, even to Lafayette. At sunset Webster addressed a vast multitude from a platform on the Common, and when the rejoicings of the day were ended, perhaps some of the descendants of the Pilgrims as they wended their way homeward in the twilight may have recalled the story of Paul's shipwreck and subsequent entertainment by the natives of Melita, and compared the narrative with Webster's ex-

perience among the versatile citizens of Boston.

When the storm broke over Webster in March, 1850, he was unfortunate in his enemies and in his friends. Among his enemies were Garrison, Phillips and Parker, men of copious vocabulary, pungent vituperation, and reckless of speech. Emerson, too, joined, although mildly, in their outcry, and Whittier wrote some bitter verses about Ichabod, as his contribution to the frantic effort of the fanatics to defame the grandest man, measured by intellect and achievement, who was ever born in the New World. Webster's most prominent friends, such as Everett, Curtis, Winthrop and Choate,—their minds overloaded with polite learning,—had not been blessed with the gift of courage, and he also had some foolish friends like Peter Harvey. Besides, Webster had faults which scandal-mongers loved to mention and exaggerate, and which perhaps gave pause to his timid followers; but there was no fault in the rock of his patriotism. He stood for more than thirty years foremost among the orators of whom we have reliable knowledge, expending the rarest of gifts to strengthen and preserve the union of the states, and earned

the right to be remembered by that work alone.

When men of ordinary or ill-balanced capacity and meagre imagination assume to sit in judgment on one of the princes of the earth, their verdict is likely to be based on a few morsels or facets of truth or error. No man can be judged justly except by his peers. If anyone with a knack of writing verses and instructed in the laws of dramatic composition, but not otherwise qualified, should attempt to write an appreciation of Shakespeare, he might easily place the bard of Avon below Tennyson. In the time of Webster men with narrow and intense minds, struggling recklessly to attain a single object, and convinced that righteousness could be obtained *per saltem*, were not competent to sit in judgment on a far-seeing patriot whose walk was on the mountain ranges of statesmanship; and in later years the views of kindred critics who have undertaken to pronounce judgment on the career of Webster are subject to the same limitations. An agitator may well demand what is possible at some time; but a statesman, in order to accomplish anything, must consent to what is presently possible.

In our day the wisdom of Webster's course in 1850 is more clearly perceived, and history is beginning to make amends to his memory for the injustice that cast a shadow over his declining years. There are some who still think it wise to dilute their admiration for the expounder of the constitution with the preserved bitterness of his enemies; but those who have learned to "think continentally" and to appreciate the incidents and comprehend the course of our political events for a century, realize that the four human pillars on which the constitution and the union rest, are: WASHINGTON, HAMILTON, MARSHALL and WEBSTER; that without Webster the fallen fabric that Hamilton had erected under the shelter of Washington's character could not have been restored, and that the efforts of Lincoln to save the union and abolish slavery must have failed. Webster's glowing speeches enlightened a generation, and won the verdict of the people for the perpetual union of the states. He was born for the universe, and the grandeur of his patriotism made him unwilling to give up to party or to race what was intended for his country and for mankind.

APPENDIX

Extracts from Speeches and Letters of Lincoln and Webster.

The most rational public opinion between 1850 and 1865 on the subject of slavery, and the soundest advice for practical statesmen in dealing with that grave issue, were no doubt expressed in the words of Lincoln. It is interesting to compare the following statements of his views during that period with the earlier opinions of Webster on the same subject, quoted in the foregoing pages, and with letters written by him in 1850 to Colby and Furness, printed near the end of this appendix. Lincoln adopted the anti-slavery opinions of Webster, and in expressing them with more feeling had the advantage of a more agreeable public sentiment.

In a speech at Peoria, Illinois, on October 16, 1854, Lincoln said: "When they [the people of the south] remind us of their constitutional rights, I acknowledge them—not grudgingly, but fully and fairly; and I would give them any

legislation for the reclaiming of their fugitives, which should not in its stringency be more likely to carry a free man into slavery, than our ordinary criminal laws are to hang an innocent one. * * *

"Some men, mostly whigs, who condemn the repeal of the Missouri compromise, nevertheless hesitate to go for its restoration, lest they be thrown in company with the abolitionist. Will they allow me, as an old whig, to tell them, good-humoredly, that I think this is very silly? Stand with anybody that stands right. Stand with him while he is right, and part with him when he goes wrong. Stand with the abolitionist in restoring the Missouri compromise, and stand against him when he attempts to repeal the fugitive slave law. In the latter case you stand with the southern disunionist [who believed that the repeal of the fugitive-slave law would precipitate secession]. What of that? You are still right. In both cases you are right. In both cases you oppose the dangerous extremes. In both you stand on middle ground, and hold the ship level and steady. In both you are national, and nothing less than national.

This is the good old whig ground. To desert such ground because of any company is to be less than a whig—less than a man—less than an American."

In the same speech, referring to an effort of Douglas to show that Lincoln's views were inconsistent with those of Clay and Webster, he said: "Finally the Judge invokes against me the memory of Clay and of Webster. They were great men, and men of great deeds. But where have I assailed them? For what is it that their life-long enemy shall now make profit by assuming to defend them against me, their life-long friend? I go against the repeal of the Missouri compromise; did they ever go for it? They went for the compromise[s] of 1850; did I ever go against them? They were greatly devoted to the union; to the small measure of my ability was I ever less so?"

And again in that speech, replying to a question why the whigs in 1852 endorsed the compromise of 1850 if they did not intend to apply the Utah and New Mexico provision to all future territories, Lincoln said: "For myself, I can answer this question most easily. I meant

not to ask a repeal or modification of the fugitive-slave law. I meant not to ask for the abolition of slavery in the District of Columbia. I meant not to resist the admission of Utah and New Mexico, even should they ask to come in as slave states. I meant nothing about additional territories, because, as I understood, we then had no territory whose character as to slavery was not already settled."

On July 10, 1858, in a speech at Chicago, Lincoln said: "I have always hated slavery, I think, as much as any abolitionist,—I have been an old line whig,—I have always hated it; but I have always been quiet about it until this new era of the introduction of the Nebraska bill began. I always believed that everybody was against it, and that it was in course of ultimate extinction. * * * The great mass of the nation have rested in the belief that slavery was in course of ultimate extinction. They had reason so to believe. * * * I have said a hundred times, and I have now no inclination to take it back, that I believe there is no right, and ought to be no inclination, in the people of the free states to enter into the slave states,

and interfere with the question of slavery at all. I have said that always; Judge Douglas has heard me say it, if not quite a hundred times, at least as good as a hundred times; and when it is said that I am in favor of interfering with slavery where it exists, I know it is unwarranted by anything I have ever *intended,* and, as I believe, by anything I have ever *said.* If, by any means, I have ever used language which could fairly be so construed (as, however, I believe I never have), I now correct it."

In a speech at Freeport, Illinois, August 27, 1858, during the debate with Douglas, Lincoln said: "I have never hesitated to say, and I do not now hesitate to say, that I think, under the constitution of the United States, the people of the southern states are entitled to a congressional fugitive-slave law. Having said that, I have had nothing to say in regard to the existing fugitive-slave law, further than that I think it should have been framed so as to be free from some of the objections that pertain to it, without lessening its efficiency."

On October 15th, 1858, at Alton, Illinois, Lincoln said, in reply to Douglas: "I suppose most

of us (I know it of myself) believe that the people of the southern states are entitled to a congressional fugitive-slave law,—that is a right fixed in the constitution. But it cannot be made available to them without congressional legislation. In the Judge's language it is a 'barren right,' which needs legislation before it can become efficient and valuable to the persons to whom it is guaranteed. And as the right is constitutional, I agree that the legislation shall be granted to it,—and that, not that we like the institution of slavery. We profess to have no taste for running and catching niggers,—at least, I profess no taste for that job at all. Why then do I yield support to a fugitive-slave law? Because I do not understand that the constitution, which guarantees that right, can be supported without it."

The following letter written by Lincoln to Chase in 1859 illustrates the state of opinion then prevailing in the north in respect of slavery in the states where it existed. It also expresses the opinion of the fugitive slave law of 1850 entertained by many people in the northern states who were opposed to slavery:—

Springfield, Ills. June 20. 1859

Hon S. P. Chase

My dear Sir

Yours of the 13th. inst. is received. You say you would be glad to have my views. Although I think Congress has Constitutional authority to enact a Fugitive Slave law, I have never elaborated an opinion upon the subject. My view has been, and is, simply this. The U. S. Constitution says the fugitive slave "shall be delivered up" but it does not expressly say who shall deliver him up. Whatever the Constitution says "shall be done" and has omitted saying who shall do it, the government established by that Constitution, ex vi termini, is vested with the power of doing; and Congress is, by the Constitution, expressly empowered to make all laws which shall be necessary and proper for carrying into execution all powers vested by the constitution in the gov-

ernment of the United States. This would be
my view, on a simple reading of the Consti-
tution; and it is greatly strengthened by the
historical fact that the Constitution was
adopted, in great part, in order to get a
government which could execute its own be-
hests, in contradistinction to that under the
Articles of Confederation, which depended,
in many respects, upon the States, for its
execution; and the other fact that
one of the earliest Congress, under the
Constitution, did enact a Fugitive Slave
law.

But I did not write you on this subject, with any view of discussing the constitutional question. My only object was to impress you with what I believe is true, that the introduction of a proposition for repeal of the Fugitive Slave law, into the next Republican National convention, will explode the Convention and the party. Hoping to turn your attention to this point, I wish to do no more. Yours very truly A. Lincoln.

Finally, in his first inaugural, Lincoln said: "I do but quote from one of those speeches [referring to his public speeches], when I declare that 'I have no purpose, directly or indirectly, to interfere with the institution of slavery in the states where it exists. I believe I have no lawful right to do so; and I have no inclination to do so.' Those who nominated and elected me did so with the full knowledge that I had made this and many similar declarations, and had never recanted them. And more than this, they placed in the platform, for my acceptance, and as a law to themselves and to me, the clear and emphatic resolution which I now read:—

"'*Resolved*, That the maintenance inviolate of the rights of the states, and especially the right of each state to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depend; and we denounce the lawless invasion by armed force of the soil of any state or territory, no matter under what pretext, as among the gravest of crimes.'

"I now reiterate these sentiments; and in doing so I only press upon the public attention the most conclusive evidence of which the case is susceptible, that the property, peace, and security of no section are to be in anywise endangered by the now incoming administration.

"I add, too, that all the protection, which, consistently with the constitution and the laws, can be given, will be cheerfully given to all the states when lawfully demanded, for whatever cause—as cheerfully to one section as to another.

"There is much controversy about the delivering up of fugitives from service or labor. The clause I now read is as plainly written in the constitution as any other of its provisions:—

"'No person held to service or labor in one state under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.'

"It is scarcely questioned that this provision was intended by those who made it for the

reclaiming of what we call fugitive slaves; and the intention of the lawgiver is the law.

"All members of congress swear their support to the whole constitution—to this provision as well as any other. To the proposition, then, that slaves whose cases come within the terms of this clause 'shall be delivered up,' their oaths are unanimous. Now, if they would make the effort in good temper, could they not, with nearly equal unanimity, frame and pass a law by means of which to keep good that unanimous oath?

"There is some difference of opinion whether this clause should be enforced by national or by state authority; but surely that difference is not a very material one. If the slave is to be surrendered, it can be of but little consequence to him or to others, by which authority it is done; and should anyone, in any case, be content that his oath shall go unkept on a merely unsubstantial controversy as to how it shall be kept?

"Again, in any law on this subject, ought not all the safeguards of liberty known in civilized and humane jurisprudence to be introduced, so

that a free man be not, in any case, surrendered as a slave? And might it not be well at the same time to provide by law for the enforcement of that clause in the constitution which guarantees that 'the citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states'?

"I take the official oath today with no mental reservations, and with no purpose to construe the constitution or laws by any hypercritical rules; and while I do not choose now to specify particular acts of congress as proper to be enforced, I do suggest that it will be much safer for all, both in official and private stations, to conform to and abide by all those acts which stand unrepealed, than to violate any of them trusting to find impunity in having them held to be unconstitutional."

After the inauguration of Lincoln, and with both houses of congress controlled by the Republican party, repeated efforts were made to repeal the fugitive-slave law of 1850, but without success until June, 1864.

In a letter to the Rev. Mr. Furness of Philadelphia, February 15, 1850, Webster said: "From

my earliest youth, I have regarded slavery as a great moral and political evil. I think it unjust, repugnant to the natural equality of mankind, founded only in superior power; a standing and permanent conquest by the stronger over the weaker. * * * I do what I can to restrain it; to prevent its spread and diffusion; but I cannot disregard the oracles which instruct me not to do evil that good may come. I cannot co-operate in breaking up social and political systems, on the warmth, rather than the strength, of a hope that, in such convulsions, the cause of emancipation may be promoted. And, even if the end would justify the means, I confess I do not see the relevancy of such a means to such an end. I confess, my dear sir, that, in my judgment, confusion, conflict, embittered controversy, violence, bloodshed, and civil war, would only rivet the chains of slavery the more strongly.

"In my opinion, it is the mild influence of Christianity, the softening and melting power of the Sun of Righteousness, and not the storms and tempests of heated controversy, that are, in the course of those events which an all-wise

Providence overrules, to dissolve the iron fetters by which man is made the slave of man."

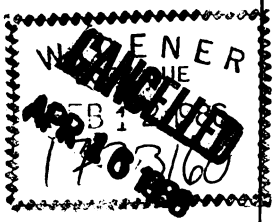
In a letter to Mr. Colby, November 11, 1850, Webster said: "Experience has taught me how useless it is to attempt to stop the allegations of political adversaries by denials of their statements. For your sake, however, I will say, that my public speeches show my opinion to have been decidedly in favor of a proper, efficient, and well-guarded law, for the recovery of fugitive slaves; that while I was in the senate, I proposed a bill, as is well known, with provisions different from those contained in the present law; that I was not a member of that body, when the present law passed; and that, if I had been, I should have moved, as a substitute for it, the bill proposed by myself. I feel bound to add that, in my judgment, the present law is constitutional; and that all good citizens are bound to respect and obey it, just as freely and readily as if they had voted for it themselves. If experience shall show that, in its operation, the law inflicts wrong, or endangers the liberty of any whose liberty is secured by the constitution, then congress ought to be

called on to amend or modify it. But, as I think, agitation on the subject, ought to cease. We have had enough of strife on a single question, and that, in a great measure, merely theoretical. It is our duty, in my opinion, to attend to other great and practical questions, in which all parts of the country have an interest."

Extract from Speech of Calhoun.

Calhoun in closing his speech in the senate on the 4th of March, 1850, declared: "It is time, senators, that there should be an open and manly avowal on all sides as to what is intended to be done. If the question is not now settled, it is uncertain whether it ever can be hereafter; and we, as the representatives of the states of this union, regarded as governments, should come to a distinct understanding as to our respective views, in order to ascertain whether the great questions at issue can be settled or not. If you, who represent the stronger portion, cannot agree to settle them on the broad principle of justice and duty, say so; and let the states we both represent agree to separate and part in peace. If you are unwilling we should

part in peace, tell us so, and we shall know what to do, when you reduce the question to submission or resistance. If you remain silent, you will compel us to infer by your acts what you intend. In that case California will become the test question. If you admit her, under all the difficulties that oppose her admission, you compel us to infer that you intend to exclude us from the whole of the acquired territories, with the intention of destroying irretrievably the equilibrium between the two sections. We would be blind not to perceive, in that case, that your objects are power and aggrandizement, and infatuated not to act accordingly."

A year or two before this speech was delivered Calhoun wrote to a friend in Alabama that, instead of shunning the issue with the north on the slavery question, it should be courted. "I will go even one step farther," he said, "and add that it is our duty to *force* the issue on the north. We are now stronger than we shall be hereafter, politically and morally. Unless we bring on the issue, delay to us will be dangerous indeed. It is the true policy of those who seek our destruction."

THE BORROWER WILL BE CHAR
AN OVERDUE FEE IF THIS BOOK IS N
RETURNED TO THE LIBRARY ON O
BEFORE THE LAST DATE STAMPED
BELOW. NON-RECEIPT OF OVERDUE
NOTICES DOES NOT EXEMPT THE
BORROWER FROM OVERDUE FEES.